THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 14907 of 2006

Dated: 21-08-2006

Between:

Sabhapathi Krishna Murthy Sarma

..... PETITIONER

AND

The Branch Manager,
Syndicate Bank, Shalibanda,
Hyderabad and two others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 14907 of 2006

O R D E R:

Heard the learned counsel for the petitioner and the learned counsel appearing for respondents 1 and 2.

The material on record shows that the first respondent-Bank initiated proceedings under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the Act) in respect of the property bearing Municipal No.2-2-485/B to D, Amberpet, Hyderabad. It appears that an application under Section 14 of the Act has been filed and consequently under a cover of panchanama, possession was also taken on 19-04-2006. This writ petition is filed seeking a direction to the respondents 1 and 2 not to enforce the security interest of the petitioner on the ground that though he preferred an appeal before the Debt Recovery Tribunal, Hyderabad, no regular Officer is functioning and consequently he could not pursue the appeal. It is contended that pending the appeal before the Debt Recovery Tribunal, if the property in question is brought to sale, the petitioner stand to suffer irretrievable injury.

This Court, by order dated 20-07-2006, granted stay of sale in pursuance of the impugned auction notice dated 10-07-2006.

A counter affidavit has been filed on behalf of the respondents 1 and 2 in which the fact that the petitioner preferred an appeal on 11-07-2006 has not been disputed. However, it is explained that though no regular Presiding Officer is functioning, the Presiding Officer of the Debt Recovery Tribunal, Visakhapatnam, who is in charge has been

taking up the matters and the petitioner could have pursued the appeal.

Having regard to the facts and circumstances of the case and keeping in view that the appeal is pending before the Debt Recovery Tribunal, Hyderabad, I am not inclined to go into the merits of the case. However, I deem it appropriate to stay the sale of the properties in question for a period of four weeks from today. Meanwhile, it is open to the petitioner to pursue the appeal pending before the Tribunal and obtain the necessary relief.

The writ petition is accordingly disposed of. No costs.

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G. ROHINI, J

Dated: 21-08-2006
KLP